

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	
)	CASE NO. BK10-80464-TJM
EARL BLAKE MASON,)	A10-8023-TJM
)	
Debtor(s).)	CHAPTER 13
EARL BLAKE MASON,)	
)	
Plaintiff,)	
)	
vs.)	
)	
DISCOVER FINANCIAL SERVICES,)	
)	
Defendant.)	

ORDER

This matter was presented to the court on the plaintiff's motion for summary judgment (Fil. #7). The motion is denied.

Service on the defendant is deficient. According to the returns of service on file (Fils. #4 and #5), the defendant and the law firm of Brumbaugh & Quandahl, P.C., were served by certified mail. The summons and complaint were sent to Discover Financial Services, 6500 New Albany Rd. East, New Albany, OH 43054." The summons and complaint were mailed to the law firm at 4885 S. 118th St., Suite 100, Omaha, NE 68137. According to Rule 7004 of the Federal Rules of Bankruptcy Procedure, service may be had by first class mail upon a corporation by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. Fed. R. Bankr. P. 7004(b)(4). A summons addressed to a company only (as opposed to an officer, managing or general agent, or other agent authorized to receive service of process) does not meet that standard. There is no indication that the Brumbaugh & Quandahl law firm is authorized to receive service of process for the defendant. If the defendant is an insured depository institution, service is to be made by certified mail to an officer of the institution. Fed. R. Bankr. P. 7004(h).

IT IS, THEREFORE, ORDERED that for the foregoing reasons, the plaintiff's motion for summary judgment (Fil. #7) is denied.

DATED: August 26, 2010

BY THE COURT:

/s/ Timothy J. Mahoney
United States Bankruptcy Judge

Notice given by the Court to:

*Erin M. McCartney
Kathleen A. Laughlin
U.S. Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.